

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

ERIKA SMITH and XAVIER JONES, wife and  
husband,

Plaintiff,

v.

WALMART, INC., a foreign corporation, d/b/a  
WALMART #4137, and J. Does 1-10;

Defendants.

NO.

COMPLAINT

The Plaintiff, Erika Smith and Xavier Jones, for their cause of action against the Defendants, and each of them, alleges as follows:

**I. PARTIES, JURISDICTION & VENUE**

1. The Plaintiff, Erika Smith and Xavier Jones, are now, and were at all times material hereto, wife and husband, and residents of Pierce County, Washington.

2. Upon information and belief, the Defendant Walmart, Inc., d/b/a Walmart Super Center #4137, is now and was at all times material hereto, a foreign corporation which owns property and transacts business in Pierce County, Washington.

COMPLAINT

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1           3.       Upon information and belief, Defendants J. Does 1-10, are natural persons whose  
2 true identities are currently unknown to Plaintiff. These individuals may share some responsibility  
3 for Plaintiff's injuries, and their identities are unknown to Plaintiff.

4           4.       All acts and omissions alleged herein occurred in Tacoma, Pierce County,  
5 Washington. Venue is proper in Pierce County.

6                               **II. CLAIM FOR NEGLIGENCE AGAINST DEFENDANTS**

7           5.       On or about October 14, 2018, plaintiff was a guest and business invitee of  
8 Walmart, Inc., at their store located at 1965 S. Union Ave. in Tacoma, WA. While at the facility,  
9 Plaintiff was injured when she approached a rack of clothing and slipped on a hanger which had  
10 been laying on the floor.

11           6.       Defendant Walmart, Inc. d/b/a Super Center #4137, its owners, managers, agents  
12 and/or employees J. Doe 1-10 owed Plaintiff a duty of care. This included a duty to use reasonable  
13 care to maintain the shopping areas and walkways in a safe manner to prevent the creation of a  
14 dangerous situation, a duty to use reasonable care to repair any dangerous condition, a duty to warn  
15 of dangerous conditions, a duty to inspect for dangerous conditions, and a duty to protect Plaintiff  
16 against known dangers.

17           7.       Defendant Walmart, Inc. d/b/a Super Center #4137, its owners, managers, agents  
18 and/or employees J. Doe 1-10 breached their duties of care by creating a dangerous condition and  
19 by failing to warn Plaintiff of the dangerous condition.

20           8.       Defendants Walmart, Inc. d/b/a Super Center #4137, its owners, managers, agents  
21 and/or employees J. Doe 1-10 acted within the scope of their agency or employment with Walmart,  
22 Inc. Defendant Walmart, Inc. is vicariously liable for the acts or omissions of Defendants John  
23 Does 1-5.

9. Defendant Walmart, Inc., d/b/a Super Center #4137, its owners, managers, agents and/or employees, and J. Doe 1-10 negligently failed to provide a safe environment for its guests and business invitees.

10. Defendants Walmart, Inc., d/b/a Super Center #4137, its owners, managers, agents and/or employees, and J. Doe 1-10 negligently failed to supervise the area to prevent injury to their patrons.

11. As a proximate result of the negligence of Walmart, Inc., d/b/a Super Center #4137, its owners, managers, agents and/or employees, and J. Doe 1-10, Plaintiff, Erika Smith suffered a serious injury.

12. Defendant Walmart, Inc. d/b/a Super Center #4137, its owners, managers, agents and/or employees J. Doe 1-10 breached their duties of care by creating a dangerous condition and by failing to warn Plaintiff of the dangerous condition.

13. Defendants Walmart, Inc. d/b/a Super Center #4137, its owners, managers, agents and/or employees J. Doe 1-10 acted within the scope of their agency or employment with Walmart, Inc. Defendant Walmart, Inc. is vicariously liable for the acts or omissions of Defendants John Does 1-5.

### III. LOSS OF CONSORTIUM

14. The Plaintiff, Xavier Jones, has suffered a loss of spousal consortium, including but not limited to loss of affection, loss of companionship, and loss of services as a proximate result of the Plaintiff's injuries due to the negligence of the Defendants Walmart, Inc. d/b/a Super Center #4137, its owners, managers, agents and/or employees J. Doe 1-10 alleged herein.

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#### IV. DAMAGES

15. As a direct and proximate result of all Defendants' negligence, Plaintiff Smith has suffered substantial injury. Although Plaintiff Smith resorted to medical attention and supportive remedies, her injuries, pain, and discomfort now prevail and will continue to prevail for an indefinite time into the future. It is impossible at this time to characterize the full nature, extent, severity and duration of said injuries, but they are alleged to be permanent, progressive and disabling in nature. Plaintiff Smith has incurred and will likely continue to incur medical expenses and other expenses to be proved at the time of trial, all to her general damage, in an amount now unknown.

WHEREFORE, the Plaintiffs Erika Smith and Xavier Jones pray for judgment against the Defendants Walmart, Inc. d/b/a Super Center #4137, its owners, managers, agents and/or employees J. Doe 1-10, and each of them, jointly and severally, in an amount that will fairly compensate him for all damages sustained, costs and reasonable attorneys' fees, pre-judgment and post-judgment interest calculated at the maximum amount allowable by law, and all other relief the Court deems fair and just.

Dated this 6<sup>th</sup> day of April, 2020.

Wattel & York, LLC

  
Zach J. Hansen, WSBA #41827  
Attorneys for the Plaintiffs